**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN**

**WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929**

**OP.No. 24383 of 2002(C)**
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**PETITIONER:**
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**NAJEEB S/O. LATE M. MOHAMMED,**
**MACHINGAL HOUSE, VALLIKKAMPATTA P.O.,**
**MALAPPURAM DISTRICT**

**BY ADV. SRI.DINESH MATHEW J.MURICKEN**

**RESPONDENTS:**
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**1. SYNDICATE BANK, REPRESENTED BY ITS**
**CHAIRMAN, HEAD OFFICE, PERSONNEL DEPARTMENT (SWD),**
**MANIPAL.**

**2. GENERAL MANAGER, SYNDICATE BANK,**
**HEAD OFFICE, PERSONNEL DEPARTMENT (SWD), MANIPAL.**

**3. ASST. GENERAL MANAGER, SYNDICATE BANK,**
**HEAD OFFICE, PERSONNEL DEPARTMENT (SWD), MANIPAL**

**4. BRANCH MANAGER, SYNDICATE BANK, TIRUR,**
**MALAPPURAM DISTRICT**

**BY ADV. SRI.M.C.SEN FOR RESPONDENTS**
**SRI.M.P.SREEKRISHNAN**
**SMT.SHAHNA KARTHIKEYAN**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**ORDER ON CMP NO. 41283/2002 IN OP NO. 24383/2002 C.**

**DISMISSED**

**27/06/2007.** **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.**

**APPENDIX**

**PETITIONER'S EXHIBITS**

**EXT.P1. COPY OF THE LETTER DT. 28/5/98 BY THE R4 TO THE PETITIONER.**

*True copy*

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**THOTTATHIL B. RADHAKRISHNAN, J.**

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**O.P.No.24383 of 2002-C**

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Dated this the 27th day of June, 2007.

**JUDGMENT**

The petitioner is the son of one Sri.M.Mohammed, who died on 21-12-1997 while working as a Clerk in the Tirur Branch of the first respondent Bank. His widow applied on 2-1-1998 requesting the Bank to provide compassionate appointment to the petitioner. The Bank examined that request and issued the impugned Ext.P1 decision stating that on careful consideration of the request in the light of the Government guidelines and the judgment of the Hon'ble Supreme Court, the Bank regrets inability to consider her request favourably. This is under challenge.

2. A counter affidavit has been placed on record.

3. The uncontroverted contention of the respondents is that striking a balance between the assets and liabilities, the net

liquid assets of the family of the deceased immediately following the death of Sri.Mohammed were Rs.5,15,552/-. Taking 12% per month as the then prevailing rate of interest, the notional monthly interest was computed at Rs.5,155/-. The family pension inclusive of D.A. per month being Rs.3,491/- was added on to derive a total monthly income of Rs.8,646/- immediately following the death of Sri.Mohammed. Noticing that the monthly income of the family immediately following the bereavement was Rs.8,646/-, it was noticed by the Bank that the deceased left behind his widow, his son, the writ petitioner and two daughters, of whom Vaheeda was already married and not dependent on Sri.Mohammed at the time of his death. The family also owned an ancestral immovable property worth Rs.1.42 lacs as against which they had stated to have availed a hand loan of Rs.1 lac. The ancestral property and the alleged hand loan were not taken into consideration for deriving the funds available with the bereaved family immediately after the bereavement.

4. Having regard to the aforesaid, the Bank takes the stand that the family cannot be taken to be in a penurious circumstances and that it is not a situation where compassionate

appointment should be extended.

5. The parties, before me, relied on the decision of the Apex Court in **Union Bank of India v. M.T.Latheesh (2006 AIR SCW 4626)**, wherein the Apex Court considered a case where the family following the bereavement was in possession of funds of around Rs.5 lacs. I refer to the said precedent only for the purpose of noticing that the procedure adopted by the Bank by ascertaining the net liquid assets available with the family following the bereavement and taking a decision on such basis, is in accordance with law. The different decisions governing the field, rendered by the Apex Court as also by this Court, are pithily that appointment under a dying-in-harness scheme is not conferment of an office by inheritance, but is intended only to provide immediate solace and succour in exceptional situations of penury to avoid vagrancy. The intention is not to encroach on public employment, which essentially should be available for recruitment from the public at large.

6. Having regard to the aforesaid, I find no grounds to interfere with the impugned Ext.P1.

In the result, the writ petition fails. The same is accordingly dismissed. No costs.

Sd/-

**THOTTATHIL B. RADHAKRISHNAN,**
**JUDGE.**

Sha/-

**THOTTATHIL B. RADHAKRISHNAN, J.**

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**O.P.No. 24383 of 2002-C**

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**JUDGMENT**

**Dated: 27th June, 2007.**